

REMARKS

Claims 16-32 are pending in the application.

On page 2 of the Final Office Action, claims 16-21 and 24-32 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Fries in view of Tomsen.

On page 10 of the Final Office Action, claims 22-23 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Fries in view of Tomsen, and in further view of Lawler and Matthews.

Applicant respectfully traverses the rejection.

Independent claim 16 sets forth receiving broadcast audio and video content along with a promotional metadata file associated with the broadcast audio and video content, the promotional metadata file including a plurality of data items, the data items including a promotion type, the promotion type including at least one of: a purchasable event or an interactive advertisement, storing the promotional metadata file and parse the promotional metadata file, receiving a user selection to view the promotion type of the promotional metadata file, presenting the promotion type to the user, the promotion type including a selectable option for the user to store the promotion type on a user-defined storage device for future viewing, during presentation of the promotion type, receiving a user selection to store the promotion type for future viewing of the promotion type on the storage device and storing the promotion type for future viewing of the interactive advertisement on the storage device. Independent claim 27 sets forth similar elements.

Fries fails to suggest promotional metadata file associated with the broadcast audio and video content. Fries discloses metadata being received. However, according to Fries, the metadata is not associated with the audio and video content. Rather, Fries discloses that the subscriber has to tune to a particular channel that is reserved for the information services. Thus,

Fries discloses that the subscriber requests viewing of pages by tuning to the information services channel.

Fries also fails to disclose presenting to the user the promotion type that includes a selectable option for the user to store the promotion type on a user-defined storage device during presentation of the promotion type. Fries simply fails to mention that the user is presented the promotion type that includes a selectable option for the user to store the promotion type on a user-defined storage device during presentation of the promotion type.

Thus, Fries fails to disclose, teach or suggest the invention as defined in independent claims 16 and 27.

Tomsen fails to remedy the deficiencies of Fries. Tomsen merely discloses a transaction that can be conducted using the interactive television systems. The user may select a prompt that asks the view whether the viewer wishes to "Buy" or a "Buy Later." If the viewer uses the remote control unit to "click" the "Buy later" selection, then the transaction is deferred by saving information.

However, it is clear that any promotion type or metadata is not associated with the broadcast audio and video content. Rather, Tomsen clearly states that that initiator is associated with the promotion type alone. Thus, Tomsen teaches that the advertisement and the program are decoupled.

Further, while Tomsen discloses that information may be stored when the viewer decides to "Buy Later," Tomsen does not suggest that the user is presented with a selectable option to store the promotion type on a user-defined storage device.

Thus, Fries and Tomsen, alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 16 and 27, as amended.

Lawler fails to remedy the deficiencies of Fries and Tomsen. Lawler is merely cited as disclosing the displaying of data items on a television display, the data items including a show date, show time and tune action. Lawler is further cited as disclosing determining whether the promotion is for an event that is presently playing using the data items, the data items including a show date and show time. Still further, Lawler is cited as disclosing the setting a reminder, when a program reminder is selected and the event is not presently playing. Lawler is further cited as disclosing tuning an event, when the event is presently playing.

However, Lawler does not suggest receiving broadcast audio and video content along with a promotional metadata file associated with the broadcast audio and video content. Lawler also does even mention storing the promotional metadata file and parsing the promotional metadata file.

Thus, Fries, Tomsen and Lawler, alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 16 and 27.

Matthews fails to remedy the deficiencies of Fries, Tomsen and Lawler. Matthews is merely cited as disclosing setting a reminder and automatically tuning to the channel after the reminder has been displayed.

However, Matthews does not suggest receiving broadcast audio and video content along with a promotional metadata file associated with the broadcast audio and video content. Matthews also does even mention storing the promotional metadata file and parsing the promotional metadata file.

Thus, Fries, Tomsen, Lawler and Matthews, alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 16 and 27.

Dependent claims 17-26 and 28-32 are also patentable over the references, because they incorporate all of the limitations of the corresponding independent claims 16 and 27, respectively. Further dependent claims 17-26 and 28-32 recite additional novel elements and limitations. Applicant reserves the right to argue independently the patentability of these additional novel aspects. Therefore, Applicant respectfully submits that dependent claims 17-26 and 28-32 are patentable over the cited references.


On the basis of the above amendments and remarks, it is respectfully submitted that the claims are in immediate condition for allowance. Accordingly, reconsideration of this application and its allowance are requested.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Attorney for Applicant, David W. Lynch, at 865-380-5976. If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 13-2725 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

Merchant & Gould
P.O. Box 2903
Minneapolis, MN 55402-0903
(865) 380-5976

94140

By: 
Name: David W. Lynch
Reg. No.: 36,204